

or Neufchattel had been insert in the inventory, seeing *utile per inutile non vitatur*. 2do, The words of the act, ' Full and particular as to all lands, houses, annualrents, ' &c. are to be taken *applicando singula singulis*, viz. full as to the extent, and particular as to the species or kinds, whether lands, houses, annualrents, &c. For as lands may go under a general designation, without mentioning every particular room, so heritable bonds are sufficiently demonstrated *relatione ad creditorem*, whereby any person having interest may have a sufficient view of the estate; and perhaps the heir knew not, at giving up of the inventory, who were debtors in the bonds.

THE LORDS refused to sustain the inventory founded on by the defender, to give him the benefit of being liable only *secundum vires*, in respect of the informalities thereof; and therefore found him liable simply as heir.

*Forbes, p. 236.*

1709. February 19.

AGNES CAMPBELL, Shopkeeper in Edinburgh against JAMES CAMPBELL of Burnbank.

In a cause at the instance of Agnes Campbell, against James Campbell of Burnbank, as served heir to Mungo Campbell his father, for payment of a debt due by him to the said Agnes Campbell,

*Alleged* for Burnbank; He ought to be assolizied, because he is served *cum beneficio inventarii*, and the inventory exhausted by debts.

*Answered*; Burnbank cannot claim the *beneficium inventarii*, because inventories were not given up by him, in the terms of the act of Parliament, before the service.

*Replied*; *imo*, The service containing the special lands, to which the heir was served, is equivalent to an inventory. 2do, The act of Parliament requires no more than that inventories be given up within the *annus deliberandi*, before the heir intromit; as an executor decerned in moveables may safely confirm and give up inventory any time within the year. Inventories cannot always be given up at the time of the service, seeing, where lands lie in several shires, it is impossible that all the respective Sheriffs and Sheriff-clerks, who must subscribe the inventories, can be present at the service; and here inventories were made up, not only before the heir intromitted, or was cited by any creditor, but also before his service was completed by infestment. 3tio, By the civil law inventories may be made up after the service, *l. 26. C. de Jure Deliberandi*.

THE LORDS found Burnbank universally liable for the debt.

*Fol. Dic. v. 1. p. 361. Forbes, p. 324.*

No 3.

No 4.

*Beneficium inventarii* not allowed to an heir who gave up inventories after the service, tho' within the *annus deliberandi*, and before he had any intromission, or was cited by any creditor, or infest on the service.